

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

O'SHEA MANN,

Plaintiff,

v.

A. GARCIA, et al.,

Defendants.

CASE NO. 1:21-cv-00764-AWI-EPG (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS**

(Doc. No. 16)

Plaintiff O'Shea Mann is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Eastern District of California Local Rule 302.

On July 7, 2021, the assigned magistrate judge entered screening order finding that Plaintiff's complaint states a claim against Defendants Garcia, Duran, Castro, Thompson, and Godfrey for excessive force in violation of the Eighth Amendment. Doc. No. 13. The magistrate judge found that the complaint fails to state any other cognizable claims. Id. Plaintiff was given a choice on how to proceed and was permitted to file a first-amended complaint, notify the Court in writing that he wished to proceed only on his cognizable claims, or notify the Court in writing that he wanted to stand on his complaint. Id. On July 19, 2021, Plaintiff filed a notice stating that he wished to proceed only on his cognizable Eighth Amendment excessive force claim against Defendants Garcia, Duran, Castro, Thompson, and Godfrey. Doc. No. 14. On July 22, 2021, the assigned magistrate judge issued findings and recommendations consistent with the screening order recommending that this action proceed only on Plaintiff's Eighth Amendment excessive force claim against Defendants Garcia, Duran, Castro, Thompson, and Godfrey. Doc. No. 16.

Those findings and recommendations were served on Plaintiff and contained notice that any objections thereto were to be filed within fourteen days after being served. Id. To date, no objections to the findings and recommendations have been filed with the Court, and the time in which to do so has now passed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the Court concludes that the findings and recommendations are supported by the record and by proper analysis.

ORDER

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations (Doc. No. 16) entered on July 22, 2021 are ADOPTED in full;
2. This action shall proceed on Plaintiff's claim against Defendants Garcia, Duran, Castro, Thompson, and Godfrey for excessive force in violation of the Eighth Amendment;
3. All other claims are DISMISSED from this action for failure to state a claim upon which relief may be granted;
4. The Clerk of Court is directed to reflect the dismissal of Defendants Amabisca and Dillard on the Court's docket; and
5. This action is referred back to the magistrate judge for proceedings consistent with this order.

IT IS SO ORDERED.

Dated: August 19, 2021



SENIOR DISTRICT JUDGE